

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

BYTEMARK, INC.,	§	
	§	
Plaintiff,	§	
	§	
vs.	§	Civil Action No. 2:16-cv-00543-JRG/RSP
	§	
MASABI LTD.,	§	JURY TRIAL DEMANDED
	§	
Defendant.	§	

NOTICE OF INSTITUTION OF INTER PARTES REVIEW FOR USPN 8,494,967

Defendant Masabi LTD hereby notifies the Court that an *Inter Partes* Review (IPR) of USPN 8,494,967 has been instituted by the U.S. Patent and Trademark Office on December 4, 2017. Case IPR2017-01449 decision to institute is attached herewith as **Exhibit A**.

A panel of three USPTO Administrative Law Judges held “Upon considering the Petition, the Preliminary Response, and the evidence filed therewith, we determine that Petitioner has shown a reasonable likelihood that it would prevail with respect to at least 1 of the challenged claims. Accordingly, we institute an inter partes review of claims 1, 3–6, 17, 18, 20–23, and 34.” Decision at p. 2.

The basis of the IPR was whether claims 1, 3–6, 17, 18, 20–23, and 34 of the ‘967 patent were anticipated by *Terrell, Cruz and Dutta*. The Board held “Based on our analysis above of independent claims 1, 17, and 18 in light of *Terrell*, we determine it is reasonably likely that Petitioner will prevail in establishing that claims 1, 17, and 18 are anticipated by *Terrell*.” Decision at p. 22, The Board then “ORDERED that pursuant to 35 U.S.C. § 314(a), an inter partes review is hereby instituted based solely on whether claims 1, 3–6, 17, 18, 20–23, and 34 are anticipated by *Terrell*.” Decision at p. 34.

This development is relevant to Defendant's Motions For Summary Judgment Of Invalidity of the '967 and '993 Asserted Patents in this suit.

Respectfully submitted,

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CERTIFICATE OF SERVICE

This is to certify that all known counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per E. Dist. Tex. Loc. Ct. R. CV-5(a)(3) on this the 11th day of December, 2017. Any other known counsel of record will be served with a copy of this document by email and/or facsimile transmission.

By: /s/ Douglas P. LaLone
Douglas P. LaLone